IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 29010 of 2003(C)

PETITIONER:

SALIN. C. NARAYANAN, AGED 36,
ADVOCATE, S/O. NARAYANAN NAIR,
CHORIYANMACKEL HOUSE, ELIKULAM P.O.,
KOTTAYAM DISTRICT.

BY ADV. SRI.S.PRASANTH

RESPONDENTS:

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1. ELIKULAM GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY,
ELIKULAM, KOTTAYAM DISTRICT.

2. STANDING COMMITTEE OF FINANCE AND
TAXATION ELIKULAM GRAMA PANCHAYATH,
ELIKULAM, KOTTAYAM DISTRICT REPRESENTED
BY ITS CHAIRMAN.

BY ADV. SRI.LAL GEORGE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.29010/2003

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF the REVISION PETITION 15.2.2000 BEFORE THE RESPONDENT NO. 2

EXT.P2: COPY OF THE DEMAND NOTICE DATED 15.5.2003 SENT BY THE RESPONDNTS TO THE PETITIONER.

EXT.P3: COPY OF THE FRESH REVIEW PETITION SUBMITTED BY THE PETITIONER DATED 6.5.2004

EXT.P4: COPY OF THE POSTAL ACKNOWLEDGMENT RECEIPT OF EXT.P3

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 29010 of 2003

Dated this 30th day of January, 2007

JUDGMENT

The grievance of the petitioner, who is a Lawyer by profession, is that the Standing Committee of the first respondent Panchayat assessed the residential building which is constructed by him to building tax of roughly Rs.4,536/- per year. Sri.S.Prasanth the learned counsel for the petitioner refers to Section 8 of the Kerala Panchayat Raj Building Tax and Surcharge Rules and submits that the Secretary of the Panchayat was bound to inform the petitioner about the assessment and the determination of tax by the Standing Committee. The counsel submitted that Ext.P1 (Review Petition) was submitted by the petitioner to the Standing Committee as soon as the petitioner came to know about the assessment made by the Standing committee.

2. The Panchayat in its statement contends that Ext.P1 has never been received by the Panchayat. Obviously, in view of that contention the petitioner has submitted fresh Review Petition Ext.P3 dated 6.5.2004. The receipt of Ext.P3 is not in

dispute. Sri. Lal George, the learned counsel for the Panchayat would submit that the petition for Review will not be maintainable in law. The statutory remedy according to the learned counsel can only be an application to the Standing Committee under Rule 9 for remission of the tax. Such application has to be made within 30 days before the end of a given assessment year.

3. Even though technically Sri.Lal George may be right, having regard to the totality of the circumstances which attend on this case I am of the view that the petitioner's grievance should be examined by the Standing Committee for Finance and Taxation of Elikulam Grama Panchayat. However, I am inclined to direct such a reconsideration by the Standing committee only on conditions. As presently fixed, annual tax payable for the building in question is Rs.4,536/-. According to Sri. Lal George, apart from complying with the condition for payment of Rs.6,500/- which was imposed by this court on 16.9.2003 the petitioner has not made any payment. The petitioner has to pay subject to the final decision which the Standing Committee will take on Ext.P3 at the rate of Rs.3,000/- per year. The entire arrears of building tax calculated at the rate of Rs.3,000/- per year shall be remitted by the petitioner to the first respondent

Panchayat within three months from today. If the petitioner discharges the amounts ordered above within the time frame stipulated , the 2nd respondent will take up Ext.P3 hear the petitioner and dispose of the same bestowing as much sympathy as it deserves. Final orders on Ext.P3 will be passed by the Standing Committee at its earliest and at any rate within two weeks of hearing of the matter.

PIUS C.KURIAKOSE
Judge

dpk